


Regulatory Impact Statement

Options to Reduce Import Barriers in Relation to Residential Construction Materials

Agency Disclosure Statement

- 1 This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment.
- 2 It provides an analysis of options to reduce import barriers – specifically import tariffs and anti-dumping duties – that apply to key residential construction materials. This forms part of a wider market study that identified a wide range of barriers to competition and productivity in the residential construction sector.
- 3 The New Zealand Customs Service (Customs) and the Ministry of Foreign Affairs and Trade (MFAT) have been involved in the formation of proposals. Quantified data has been used to the extent possible and the analysis includes estimates of the impacts of removing import barriers. However, there are some data limitations. For example, data availability for accurate analysis is limited due to the structure of the New Zealand Tariff. Assumptions include the use of an exemplar house to model the impact of tariffs and anti-dumping duties on a “typical” new home. Qualitative analysis has been used throughout this document and is sufficient for allowing conclusions to be drawn. It is hard to predict the dynamic effects of amending trade barriers but analysis is provided.
- 4 One of the preferred options – to temporarily suspend the anti-dumping regime in relation to key construction materials – was not explicitly consulted on. It emerged as an option through the latest round of consultation, which highlighted the potential for unforeseen effects on other sectors (beyond residential construction). The new option minimises this risk. MBIE is comfortable that the consultation provided sufficient information to assess the risks, costs, and benefits of the additional option, notwithstanding that it was not explicitly consulted on. Consultation on the final suite of proposed options has not occurred due to Budget sensitivity.
- 5  risks have been taken into account in this RIS, and the preferred options aim to strike an appropriate balance between minimising these risks while realising the potential benefits. The key benefit is likely to come from the dynamic effects of reducing trade barriers, with the reduction in barriers for importers likely to yield greater competition in the residential construction materials sector.

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Introduction

- 6 As part of the government's response to the Productivity Commission's 2012 report on housing affordability, Cabinet directed MBIE to undertake a market-level study into the residential construction sector to identify barriers to improved housing affordability [CAB Min (13) 13/5]. MBIE's study identified a range of barriers that could be having a significant cumulative impact on the competitiveness and productivity of the sector.
- 7 In November 2013, MBIE released the Residential Construction Sector Market Study Options Paper ("the Options Paper") which proposed a range of options to address these barriers.
- 8 Import barriers – specifically tariffs and anti-dumping duties on residential construction materials – were two of the barriers identified. Ministers have asked MBIE to provide advice in relation to these import barriers ahead of the other barriers, recognising that reducing trade barriers has the potential to bring about relatively quick and significant benefits. Speed of impact is an important consideration if the benefits of increased competition are to be realised in time for the Christchurch rebuild and the expected increase in residential construction activity in Auckland. This RIS therefore considers a range of options to amend import tariffs and the anti-dumping regime.

Status Quo: The Role of Tariffs and Anti-Dumping Duties in the Residential Construction Sector

- 9 A tariff imposes a specified rate of import duty to be paid by an importer of a specified good. They are applied to imported goods to provide industry assistance to domestic manufacturers producing similar goods.
- 10 Anti-dumping duties seek to remedy the injury caused by 'dumped' imports on New Zealand's domestic industries. Goods are dumped if the export price to New Zealand is less than the price they are sold for in the domestic market of the exporting country (the 'normal value'). In essence, dumping is price discrimination between an export and domestic market. Dumping can be remedied by the imposition of anti-dumping duties at the border to "level the playing field". Since 1990 anti-dumping duties have not been applicable to imports from Australia. Anti-dumping duties are currently applied to three construction materials: reinforced steel bar from Thailand; plasterboard from Thailand; and nails from China.
- 11 Anti-dumping duties differ from tariffs. Anti-dumping duties are applied only to specific goods following an investigation to establish whether dumped goods are causing injury to a domestic industry.

Tariffs

- 12 Tariffs are already low and reducing through completed free trade agreements, the full effect of which will be implemented over several years. Other free trade agreement negotiations are likely to be completed in the next five years. These will reduce tariffs further.
- 13 Most building materials notionally have a five percent headline tariff rate. Countries with whom we have free trade agreements will generally be exempt from the five percent base rate, or be in a situation where tariffs are being phased out in conjunction with a negotiated FTA. For most building products, most imports are received from a country, or a group of countries, with whom we have a FTA.

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14 Some goods incur no tariff at all. These are goods for which domestic industry is not economically viable or, conversely, is robust enough to withstand full international competition. Cement is one residential construction material in this category. Most goods imported into New Zealand are effectively duty free, either because they are not subject to a tariff or because the applicable “adjusted” tariff is zero. [REDACTED]

15 [REDACTED]

16 Cabinet decided last year “that import tariffs be held at their existing rates until at least 30 June 2017” [REDACTED]

Anti-Dumping Duties

17 Anti-dumping duties are currently applied to three construction materials: reinforcing steel bar from Thailand; plasterboard from Thailand; and nails from China (see below). Duties are determined under the Dumping and Countervailing Duties Act 1988. Under this Act, New Zealand producers of ‘like’ goods, when applying for an investigation, need to provide evidence that goods are dumped into New Zealand and that the dumping causes material injury to the New Zealand industry. If these conditions are met, based on an investigation, the Minister sets a duty which may not exceed the difference between the normal value and export price of the goods but can be at a lesser rate if this is sufficient to prevent material injury. Duties expire 5 years after they were imposed or last reviewed unless a review determines that the removal of the duty is likely to cause a continuation or recurrence of dumping and material injury.

- a. Duties on certain standard plasterboard imports from Thailand have been in place since 1989. Most recently, in 2011, a review was initiated to examine the likelihood of a continuation or recurrence of dumping and material injury to the domestic industry should the anti-dumping duties be removed. The investigation was initiated following an application by Winstone Wallboards Limited (Winstone), the only New Zealand producer of goods “like” those imported from Thailand. The investigation found that Thai plasterboard was being dumped, that this was likely to continue, and this would likely cause a recurrence of material injury to Winstone.
- b. Duties on imports of certain wire nails from China have been in place since 2011. The 2011 review was initiated following an application from Wireplus Limited (Wireplus). The investigation concluded that the domestic industry (considered to be Wireplus for the purpose of the Act given that Wireplus on its own constitutes a major proportion of the New Zealand production, though there are three New Zealand manufacturers of wire nails) had suffered material injury caused by dumped imports from China.
- c. Duties on reinforcing steel bar and coil imports from Thailand have been in place since 2004, after an investigation established that the goods were being dumped and were causing material injury to the New Zealand industry (Pacific Steel). In 2009, a review found that if the current anti-dumping duties were to be removed there was a likelihood of a recurrence of dumping and this was likely to cause material injury to Pacific Steel.

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18 The test for material harm is a straightforward assessment of whether the domestic industry has suffered material injury or is threatened with material injury as a result of the dumping, relative to their position if there were no dumped imports. It does not include consideration of the wider benefits that may arise as a result of the dumped goods nor does it assess whether the current prices charged by the domestic industry are reasonable.

Problem Definition

- 19 Houses are the largest financial commitment most New Zealanders will make in their lifetime and the government is undertaking a wide programme of work looking at issues related to housing affordability. The residential construction sector is one element that contributes to the supply cost of housing, with other factors such as the availability of land also being important. As above, as part of the government's response to the Productivity Commission's 2012 report on housing affordability, Cabinet directed MBIE to undertake a market-level study into the residential construction sector to identify barriers to improved housing affordability [CAB Min (13) 13/5]. Such barriers would mean that potential cost savings are not being realised.
- 20 Recognising the forecast increase in residential construction, particularly for the Christchurch rebuild and in Auckland, it is important to ensure that the residential construction market is operating efficiently and productively.
- 21 This RIS forms part of a broader project looking at the presence of barriers to competition in the residential construction sector. In particular, consultation in 2013 on an Issues Paper pointed to the existence of a range of barriers – both structural and behavioural – to competition and productivity in the residential construction sector. The study found that while each barrier on its own may not appear to be having a large impact, the presence of multiple barriers implied that their cumulative impact could be significant.
- 22 The wider study includes consideration of the regulatory framework of the sector, issues around brand specification, the limited availability of acceptable solutions, inefficient and inconsistent consenting behaviour, the transparency and inefficiency of strategic practices and ways to increase innovation in the sector. Officials are working through the implications of potential changes in these other areas [REDACTED]
- 23 As outlined above, this RIS looks specifically at the impact of import barriers on competition in the residential construction sector. Tariffs and anti-dumping duties are forms of import barrier. Others include exchange rates; and compliance with regulations and standards.
- 24 Tariffs (and other import barriers) can be expected to support continued or greater activity, employment, and investment in domestic industries producing goods 'like' those subject to the tariff. On the other hand, they hinder importers from competing on price, which keeps construction costs higher than they would be in the absence of import barriers. Since they distort relative prices, tariffs and duties may increase the use of New Zealand's labour and capital resources in relatively inefficient sectors. Freeing up these resources for use in more productive sectors would generate better returns across the economy. Domestic industries using goods subject to tariffs and duties on their inputs would be expected to face higher prices for inputs with a flow on impact on their activity and investment. End-users or consumers may face higher prices, effectively causing a reduction in their disposable income.

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Tariffs

- 25 Given the relatively low rate of tariffs on key residential construction materials, the potential direct harm caused by tariffs is likely to be relatively small.¹ As discussed further in the Regulatory Impact Analysis section, an indicative estimate of the direct impact of import tariffs on building materials in an exemplar 202m² house is about \$900. The effect will be lower or higher than this for particular houses depending on the materials used.
- 26 More significant than the direct effect is the likely impact on competition and other dynamic effects that would result in the absence of tariffs as lower prices, increased imports and new supply sources interact.

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Anti-Dumping Duties

- 28 MBIE received feedback from industry participants that anti-dumping duties are preventing them from offering lower prices in the New Zealand market, and thereby are acting as a barrier to competition and increasing the cost of residential construction.
- 29 To the extent that this protects domestic industry from unfair trading practices, it is likely to be consistent with the purpose of the anti-dumping regime. MBIE's concern is that the harm to competition in the residential construction sector, with subsequent impacts on housing affordability, may outweigh the benefits to the domestic manufacturing sector. Specific issues identified with the current regime are as follows:
- a. Under the Act (and consistent with WTO guidelines), goods are 'dumped' if the export price to New Zealand is less than the price the goods are sold for in the domestic market of the exporting country. In essence, dumping is price discrimination between an export and domestic market. The test ignores that price discrimination is not necessarily indicative of unfair or predatory trading practices; rather it could be an efficient response to the different market conditions around the world.
 - b. Under the Act (and again consistent with WTO guidelines) duties are imposed if dumping causes material injury to the New Zealand industry. The Act does not allow any consideration to be given to whether the imposition of an anti-dumping duty is in the public interest. What if the New Zealand industry would be injured by the imports simply because it would be forced to set competitive prices? This would be a welfare enhancing shift for the New Zealand economy but cannot be taken into account at present.
 - c. The longer that measures remain in force, the more they shield industries from the need to adjust to structural pressures. Moreover, with measures already in place, it is not possible to directly test for injury and causality.
- 30 It is difficult to directly assess the impact of anti-dumping duties on the construction sector. This is because the duties, and even the threat of duties, are likely to change the underlying behaviours and incentives of firms. For example, even firms not subject to anti-dumping duties may be avoiding competing on price due to the potential for duties to be applied.

¹ The scope of 'key residential construction materials' is discussed in paragraphs 60 to 74 below.

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31 A 2013 US study found that anti-dumping increases the likelihood of exit from the US market by foreign suppliers by more than fifty percent. Moreover, the study finds that anti-dumping may have a far greater welfare impact than generally recognised since firms may not try to enter a market in the first place if the destination industry is known to be aggressive users of anti-dumping.

32 This is consistent with the feedback MBIE received [REDACTED]

a. [REDACTED]

b. [REDACTED]

33 [REDACTED]

34 As discussed in the Regulatory Impact Analysis section, anti-dumping duties on plasterboard alone could be increasing the cost of an average house by \$680 – \$4,200.

35 More importantly, there will be significant indirect benefits through increased competition (leading to greater innovation, price reductions and/or quality improvements) and more efficient allocation of resources in the domestic economy.

36 Collectively, anti-dumping duties and import tariffs on key residential construction materials could have an impact of up to \$5,100 on the cost of an average newly built 202m² home. The impact of tariffs is around \$900 per average new home, while anti-dumping duties account for up to \$4,200 of costs. 21,300 new houses were consented in 2013. If each saved \$5,100, the total savings would be \$108,630,000. Forgone tariff revenue would be \$5.5 million and forgone revenue from anti-dumping duties would be less than \$200,000. Further information on these figures is provided below.

Objectives

37 The objective is to minimise barriers to import competition among suppliers of building materials, particularly during the time of the Canterbury rebuild. While it is expected this will flow through to price reductions for end-users of key residential construction materials, the focus of this exercise is on minimising barriers to competition.

38 Removal of costs incurred at the border, such as tariffs and anti-dumping duties, will help minimise barriers preventing importers of building materials from:

- selling at more competitive prices
- increasing supply from sources currently subject to duties
- commencing supply from new source countries

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- investing in supply lines for increased imports from source countries subject to duties.

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40 MBIE's knowledge and understanding of trade policy comes from our experience as the lead agency on tariff and anti-dumping policy, our collaboration with the New Zealand Customs Service over the implementation of tariff policy, and our collaboration with MFAT to understand their interests.

41 The criteria used to determine whether the considered options meet these objectives vary by issue and are outlined in the respective sections of the options analysis.

42 The following section of the paper presents analysis of the options available in two parts:

- a) Options to amend import tariffs
- b) Options to amend the anti-dumping regime

43 A number of sub-options are discussed within each section.

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A: Options to amend import tariffs


44 This regulatory impact analysis of options to amend import tariffs is structured as follows:

- a. It sets out the assessment criteria for assessing the various options in relation to import tariffs.
- b. It details the limitations to quantitative analysis of these options.
- c. It compares the status quo to the two possible mechanisms to alter tariffs, namely removal of headline tariffs and the introduction of a tariff concession scheme. This analysis shows that tariff concessions are preferred as they meet our objectives to a greater degree than the status quo and with less opportunity cost than changes to the headline tariff regime.
- d. Having determined that tariff concessions are our preferred approach, the regulatory impact analysis considers options for the design of the concession scheme, i.e. the scope, the degree to which the duty is removed by concessions, the duration of the scheme and the specificity required for the wording of the concession.

Assessment criteria

45 The primary objective against which all options will be considered is to reduce any undue barriers to competition in the markets for residential construction materials.

46 In addition, a scheme should reflect the interests of those it relates to. That means:

- a. Customs can enforce the scheme and administer it cost-effectively, such that the costs of the scheme do not outweigh the benefits
- b. 
- c. importers have certainty when importing goods captured by the scheme (or not) and do not face undue compliance costs, to allow uptake sufficient for the positive benefits of the scheme to be tangible.

47 Any detailed assessment of the costs and benefits of a tariff concession scheme would be costly, time-consuming and unlikely to provide much more information than what is known through the theory of tariff removal or the indicative estimates of the benefits provided below. The main difficulties with quantifying the benefits accurately are:

- a. it is very difficult to capture all goods used in a building, or even in major parts of buildings, because there are so many materials and product lines used in the industry
- b. the Tariff is not constructed in a way that allows many building materials to be identified separately
- c. building materials are classified in the Tariff under many tariff items and statistical keys and in many cases are aggregated with other goods that are not used in residential buildings. For example, plasterboard is included in a tariff description that covers "boards, sheets, panels, tiles and similar articles, not ornamented . . . faced or reinforced with paper or paperboard only". This description may include plasterboard ceiling panels, performance plasterboard (noise-reduction or fire-proofing), as well as standard plasterboard used in commercial applications
- d. in key data sets, import data for building materials is hidden by broad categories of classification that are too high-level for the purposes of this exercise
- e. the effect of removal of a tariff is not just the actual amount of duty removed but includes:

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- i. the flow on effect through the margins of importers, distributors and builders to the final purchase price
- ii. the dynamic effects of increased competition through lower prices and new suppliers.

48 Strong qualitative options analysis is possible, despite limits to the availability of quantitative data.

Options to amend the tariff regime

49 There are two ways to achieve a widespread reduction on the duty paid on imported goods (from all countries of origin who do not enjoy most favoured nation status):

- a. reductions to headline tariffs in Part 1 of the Tariff
- b. the introduction of a concessions scheme in Part 2 of the Tariff.

50 A tariff concession removes the import duty that would otherwise be payable under the Tariff of New Zealand ("the Tariff") for certain goods. Tariff rates applying to goods are listed against tariff items which are used to describe or categorise goods in Part 1 of the Tariff. The classes of goods that are eligible for tariff concessions are listed in Part 2 of the Tariff and include goods used for social or humanitarian purposes, passengers' baggage, immigrants' effects, and imported goods where no suitable alternative is made in New Zealand.

51 These options will be assessed here against the status quo.

52 As noted, under the status quo, effective tariff rates are reducing as free trade agreements take effect and new agreements are signed. Many of the agreements signed are with countries that provide significant contributions to our residential construction sector. Many residential construction materials are already duty free or, given our key trading partners, on a path to being duty free when imported from nations with whom we have agreements.

53 However, as long as effective tariffs remain at any level in regard to any countries of origin, there is a small but significant barrier to competition on the affected tariff lines. As minimising any undue barriers is the overarching objective, any benefits arising from the status quo need to be compared against the cost of impeding competition in residential construction markets. MBIE notes the status quo provides certainty to importers and is able to be administered but these "benefits" are not contributing to the overarching objective the way a well-designed regime for tariff rate reduction could.

54 The options for change – i.e. tariff concessions or reduction in headline tariffs – would make similar contributions to the reduction of barriers to competition in the residential construction sector. The issues with quantifying these economic impacts are set out above. The legislative implications of both options are also identical. Both could be achieved through Order-in-Council.

55 The concessions scheme option has [REDACTED] advantages over reductions to headline tariffs. [REDACTED]

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56 [REDACTED] the nature of the Tariff means most residential construction materials are classified under tariff lines that include products used for other purposes. Blanket reductions of relevant headline tariffs would thereby capture key residential construction materials but spillover to capture many other products as well. A concession scheme, as proposed below, would capture materials “of the kind used in residential construction” regardless of what else was in the tariff lines with these materials. While there is some potential for spillover, particularly into goods used for non-residential construction and renovation, the likely incidence is lower than the spillover that would occur if headline tariffs in Part 1 of the Tariff are altered. This means the loss of revenue to the Crown from the establishment of a reduction of duty would be lower if a concession was introduced than if the headline tariffs were altered.

57 Further, Cabinet agreed to keep headline tariffs at their current levels at least until 2017.

58 Therefore, officials favour a concession scheme over changes to the headline tariffs or maintenance of the status quo. Issues pertaining to the design of the scheme are discussed below.

Sub-options

59 Sub-options exist at several parts of the design of a tariff concession scheme, including:

- a. The scope of materials included
- b. The degree to which a concession would reduce tariffs
- c. The duration of the scheme
- d. The wording of the concession as noted in Part II of the Tariff.

The scope of materials included

60 The objective is to design a scope that would capture as many key residential construction materials as possible (in order to achieve the overarching objective of minimising barriers to competition in the residential construction sector) while recognising the need to:

- a. retain administrative simplicity. It is particularly important that the scheme has low administration costs so as not to offset the benefits of duty-free entry.
- b. [REDACTED]
- c. reflect the importance of the materials included in residential construction.
- d. provide certainty for importers.

61 When we speak of residential construction materials we are referring to the permanent and structural elements that are integral to a home’s construction by builders and sub-contractors. The original problem identification found a lack of competition in relation to these markets and subsequent consultation focussed on players in these markets.

62 Our view of the elements that fit into this definition is as follows:

- a. prefabricated houses
- b. regardless of their composition, goods of a kind used in houses for:
 - i. foundations, including steel reinforcing mesh and reinforcing steel bar
 - ii. structural integrity, including trusses, framing and framing elements, supporting beams

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- iii. the external fabric, including roofing, cladding, rainwater systems, windows and doors, frames, and elements of these such as roofing underlay and building wrap
- iv. the internal fabric, including plasterboard and other linings, internal doors, architraves and trim
- v. insulation
- vi. fixing and sealing materials, including nails, screws, nailplates, hinges, adhesives and screws
- vii. builders' hardware, including locksets, passage sets, handles and door stops
- viii. plumbing elements, including pipes, pipe fittings, tapware, shower slides, roses and mixers and hot water storage and heating items
- ix. electrical elements, including cable, switchboards, switches, powerpoints, phone and light fittings
- x. sanitaryware, including toilets, cisterns, hand basins, showers and baths
- xi. permanently fixed joinery, including kitchen cupboards, benchtops, cabinets and vanities
- xii. paint.

63 The materials in this list comprise those targeted by the original problem definition and contribute over 90 percent of the cost of residential construction materials in an exemplar 202m² newly built house (according to analysis of data supplied by property and construction practice, Rider Levett Bucknall). Therefore the overarching objective would be achieved by a concession scheme that covers these products.

64 This classification does not encompass *everything* that goes into a house, recognising that there may be materials or goods used in a house that MBIE does not consider fall within "residential construction markets" (as above, the problem definition and subsequent consultation were focussed on these markets). For example, it would not include:

- a. appliances (such as stoves, rangehoods, hobs)
- b. articles for heating, ventilation and air-conditioning (such as heat-pumps and electric heaters)
- c. smoke-detectors
- d. decorative items
- e. landscaping and materials for outdoors
- f. tools.

65 MBIE is comfortable that these items do not fall within the markets that are the focus of the study, for example (1) they are not integral to the permanent, structural fabric of a house, and (2) they are sold through various supply channels including specialty shops, department stores, and direct to clients (that is, it does not appear to be necessary to access the building supplies merchant channel for these products).

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66 One set of materials we identified that isn't clearly in either category is floor coverings such as carpets, vinyl and tiles. While most new houses are built and sold with floor coverings, they are not part of the permanent structure of a house in the way the materials listed in paragraph 62 are. They are also available from outside the building supplies merchant channel, most notably from specialist stores.



on balance MBIE does not recommend including floor coverings in the initial scope of the tariff concession scheme.

67 MBIE has considered the list of "key residential construction materials" – as set out in paragraph 62 above – against the design criteria in paragraph 60. MBIE considers that the inclusion of *all* materials in this list best meets the design criteria set out in the first paragraph of this sub-section. In particular:

- a. It creates certainty for importers who would have a clear understanding of which goods they could claim the concession on.
- b. Having worked with Customs in relation to the design and implementation of a concessions scheme, it appears the items in the preferred sub-option could be captured by a concession scheme in a way that is cost effective to administer and enforce. It can also provide certainty for importers. This scope covers less than five percent of dutiable tariff lines and targets materials integral to residential construction.

c.



68 The direct effect of tariff concessions for the full list of key residential construction materials is likely to be small but not insignificant. MBIE officials have attempted to get an indicative understanding of the impact of tariffs, and their removal, on the cost of a house by analysing the materials in a 202m² exemplar house. The impact of tariffs on the cost of that house is estimated to be about \$900, assuming locally made goods are priced up by the amount of the duty collected. A table showing the effect on selected materials is at Annex 1.

69 It is assumed that the impact of the tariff protection on imported materials will be reflected in the price by which materials manufactured locally are currently priced up. The analysis shows that for the exemplar house:

- a. there would be no impact, or a minimal impact, on products such as cement and timber framing which are already duty-free

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- b. there is a minimal impact on products which are being sourced from countries where tariffs have been removed under FTAs, such as brick cladding from Australia and China and plasterboard from Australia and Thailand – removal of the 5 percent tariff would however make these products cheaper from sources where we do not have FTAs [REDACTED]
 - c. there is a significant direct impact on the cost of materials such as steel roofing, aluminium windows, fibreglass insulation, paint and kitchen units – with a much higher impact where the 5 percent duty is being paid, such as for imports of kitchen units from Europe.
- 70 An indicative estimate of the annual duty that would be exempted on the preferred option is \$5.5 million. [REDACTED]
- 71 We would expect the direct impact on the price of building materials as faced by end-consumers to be greater than this, since importers, distributors and builders tend to apply margins on all materials purchased (therefore the effect of the tariff would multiply throughout the supply chain). [REDACTED]
- 72 Tariffs can result in resources being diverted to less productive areas of the economy. They can also constrain competition, investment, export performance and incentives to increase productivity and innovation. One of the major gains from freer trade is that it increases competition in the domestic economy. As a small economy, New Zealand potentially has more to gain from international trade to ensure that there is competitive pressure on domestic firms.
- 73 In particular, in addition to the direct effects discussed above, tariff concessions may bring the following dynamic benefits:
- a. by increasing competition from imports at lower prices, domestic producers will likely need to also reduce their prices in order to remain competitive.
 - b. tariff concessions may alter the make-up of countries that New Zealand imports its building materials from. There may be an increase in imports from countries subject to 5 percent tariffs, such as an increase in insulation from the United States or an increase in kitchen units from Germany. Concessions may lead to imports from new or different sources in the event that the tariff has acted as a tipping point that prevents trade.
 - c. this increased competition, potentially from new sources, may incentivise firms to innovate and compete on both price and non-price grounds, leading to benefits like increased choice, better customer service, and product innovation.
- 74 The preferred sub-option specified here is indicative in scope. It may be necessary to have a period after the scheme is implemented in which industry can request products be added to the scheme. Customs will be able to consider these requests in accordance with the policy direction set by MBIE. Officials will consult with industry before the scheme is implemented to attempt to minimise industry requests once the scheme is implemented.
- Amount of concession*
- 75 Tariff concessions can be used to suspend tariff rates in their entirety or could reduce the rates. This paper recommends using a concession to remove duty on key residential construction materials in its entirety.

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76 As shown in the table in Annex 1, while the nominal headline tariff rate on a good may be five percent, the duty collected as a percentage of import value can be much lower. This reflects the FTAs in place. As existing FTAs mature and new FTAs are signed, the duty collected as a percentage of import value will continue to decrease. In order to make the concession scheme meaningful enough to achieve the overarching policy objective, the only viable option is to concede all duty on key construction materials. As indicated above, the impact on reducing barriers to competition in the residential supplies sector is small but significant. To use a concession system to only partially remove the duty on key residential construction materials would have an insignificant impact.

Scheme duration

77 Officials have considered two sub-options for the duration of the scheme:

- a. [REDACTED] review after five years
- b. [REDACTED] the scheme would continue indefinitely.

78 The sub-options are assessed against the table below.

79 On balance, officials prefer the first sub-option. This option could deter some longer term investment if importers require certainty around the fate of the concession scheme before committing to these. However, it does allow adequate time to address the concerns of the day, i.e. the Canterbury rebuild and the shortage of housing supply in Auckland. It also allows a reasonable duration to assess the results of the scheme fairly. [REDACTED]

[REDACTED] Further, it is sensible policy practice to review a major policy initiative after a reasonable time period. The first sub-option allows for this.

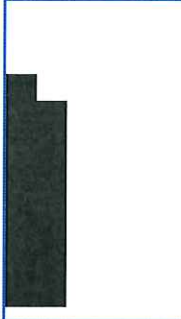
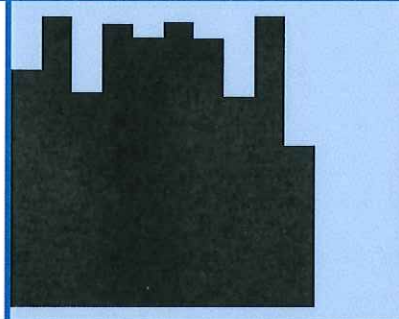

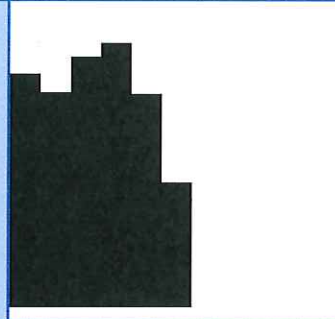
80 MBIE considers that a shorter timeframe for review (e.g. three years) could inhibit importers from investing time and resources to increase supply or open up new supply from countries whose exports attract the 5 percent duty rate.

81 [REDACTED]

82 [REDACTED]

83 [REDACTED]

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<p style="text-align: center;">Objective</p> <hr/> <p style="text-align: center;">Sub-Option</p>	<p style="text-align: center;">Reducing barriers to competition in the residential construction sector</p>	<p style="text-align: center;">Cost effective enforcement and administration</p>		<p style="text-align: center;">Certainty for importers No unreasonable compliance costs</p>	<p style="text-align: center;">Logical and defensible scope</p>
<p>Commitment to review after five years</p>	<p>✓ This sends a clear signal to importers, suggesting they should commit time and capital to sourcing the most affordable goods for a window that addresses the current needs of the nation, i.e. the Canterbury rebuild and rising house prices in Auckland.</p>	<p>✓ It is sensible policy practice to review an initiative after a reasonable time period.</p>		<p>✓ This sub-option gives reasonable certainty to importers, encouraging medium term investment (but potentially discouraging longer term investment).</p>	<p>-- Not applicable</p>
<p> scheme will continue indefinitely</p>	<p>✓✓ This sends the clearest signal to importers, suggesting they should commit time and capital to new sources of goods where they are most affordable to address the current needs of the nation and beyond.</p>	<p>-- While ostensibly free, this option disregards sensible policy practice, i.e. reviewing an initiative after a reasonable time period.</p>		<p>✓✓ This sub-option gives certainty to importers, encouraging long term investment.</p>	<p>-- Not applicable</p>

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Options for wording the concession

84 Tariff concessions are approved by the Minister of Commerce (now under delegation to the Minister of Customs, the Chief Executive of Customs and certain Customs senior officials under Section 8(1) of the Tariff Act 1988 (the Act)). Such approvals must be "in respect of the entry of goods falling within any of the classes or any of the circumstances specified in" Part II of the Tariff.

85 A new class of goods can be established in Part II of the Tariff through an amendment to the Tariff by Order-in-Council under section 9 of the Act. The class of goods could have a duty rate of free and be described for example as:

Building materials of a kind used in the construction of residential houses, as may be approved by the Minister and subject to such conditions as the Minister thinks fit.

86 We then envisage approval under Section 8(1) of the initial list by the Minister of Customs, publication in the Gazette and in the Consolidated List of Approvals, which is published and available in hard copy and online.

87 Tariff concessions are implemented and enforced on the basis of the imported goods meeting a description that is clearly understood by importers and can be administered by Customs at the border. The description may be supplemented by a tariff reference. A concession code is assigned by Customs for commercial shipments and used by importers on their import entries to claim concessions.

88 Examples of different types of current concessions are:

- a. Goods where there is no suitable alternative made in New Zealand – on application, identified by both tariff item and goods description, and each specific concession is assigned a concession code (about 25,000). These concessions are usually tightly defined e.g. including dimensions.
- b. Goods for religious use – goods descriptions only are used and only two concession codes have been assigned
- c. Tobacco and liquor concessions for passengers – goods descriptions only are used, with no concession code as these are not commercial shipments.

89 Some difficulties that need to be considered when designing a tariff concession scheme are:

- a. there are an estimated 45,000 building products which are classified in the Tariff [REDACTED], for example insulation may be made of fibreglass, polypropylene or other materials, all falling under different tariff lines.
- b. residential building materials do not fall neatly into one tariff item and statistical key, for example, plasterboard is included in a tariff description that covers "boards, sheets, panels, tiles and similar articles, not ornamented . . . faced or reinforced with paper or paperboard only". This description may include plasterboard ceiling panels, performance plasterboard (noise-reduction or fire-proofing), as well as plasterboard used in commercial applications.
- c. some materials are designed for, or used in, residential or commercial builds or other uses e.g. some roofing iron may be used for housing or commercial buildings.
- d. Customs is not able to administer or enforce a concessions scheme based on "end-use" descriptions, because it deals with the actual physical goods at the border rather than at the time of their use.


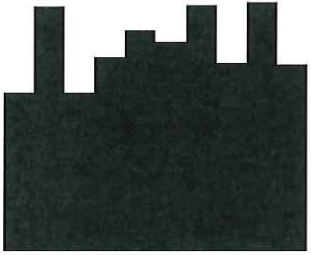
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- e. some manufacturers of finished building materials may use dutiable inputs and will be competing with duty-free finished materials.
- 90 These difficulties would also have been encountered if tariffs were removed substantively under Part I of the tariffs.
- 91 MBIE considers that the pragmatic way of dealing with these issues is to take a reasonably broad/pragmatic approach to the design of a tariff concessions scheme, which would mean that some goods imported duty-free under the tariff concessions scheme will be used for purposes other than residential construction. MBIE favours applying duty-free concessions to goods “of a kind used in residential building”, so, for example, all roofing iron designed and marketed for residential use (even if also designed and marketed for commercial use) would be captured by, and benefit from, the scheme.
- 92 There appear to be two main sub-options available, that are quite different in their approaches:
- a. sub-option A based on broad descriptions of goods e.g. roofing of a kind used in houses for roofing.
 - b. sub-option B based on tightly-defined descriptions e.g. particular types of roofing, including perhaps composition and dimensions.
- 93 MBIE’s preference is for a tariff concessions scheme that is based on broad descriptions (sub-option A). Customs is working collaboratively with us to scope out a version of this option. The following table summarises our reasons for preferring broad descriptions.

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Objective Sub-Option	Reducing barriers to competition in the residential construction sector	Cost effective enforcement and administration	[Redacted]	Certainty for importers No unreasonable compliance costs	Logical and defensible scope
<p>Sub-Option A – Broad Descriptions</p>	<p>✓ Highly visible to the building industry and materials supply sector sending a clear signal that competitors will be benefitting from tariff reductions and new sources could emerge.</p>	<p>✓ Enforced through normal post-entry audits and may be subject to occasional dispute around what might be “materials of a kind” used in residential construction.</p> <p>✓ Low administration costs as long as it is recognised that importers can claim the concession even if some of the goods will be used in commercial construction (e.g. importers of plasterboard may not know at the time of importation, whether it will be used in residential or commercial construction).</p>	<p>[Redacted]</p>	<p>✓ Certainty can be achieved by ensuring the goods only have to be of a kind used in residential construction and not necessarily actually used in residential construction.</p>	<p>✓ Provides for all key materials for residential construction to be imported duty-free, relying on identification by importers of broadly-described goods of a kind used in residential buildings.</p> <p>-- Includes not only what is intended, but also some materials that will be used in commercial construction. Note: “End-use” concessions would be complex to administer and difficult to enforce.</p>
<p>Sub-Option B – Detailed Descriptions</p>	<p>-- Meaningful to the suppliers of those particular materials, with perhaps not the same overall impact.</p>	<p>✓ Specific and easily enforced with little room for dispute.</p> <p>* Administratively complex to implement</p>	<p>[Redacted]</p>	<p>-- Very clear to importers, but there will be grey areas at the margins of some descriptions and likely ongoing applications for</p>	<p>* Would require thousands of products to be described in some detail and perhaps classified under the Tariff, and even then many of those products would be used in both commercial and residential</p>

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		and ongoing administration costs as more or new products are identified.	 	inclusion in the scheme.	buildings. -- Includes not only what is intended, but also some materials that will be used in commercial construction.
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94 As the table shows, on balance the broad description sub-option achieves the policy objective while being easier to establish.

Summary of preferred options package for tariffs

95 In summary, officials recommend establishing a tariff concession scheme on key residential construction materials. The main features of the scheme are:

- a. Full coverage of materials that MBIE considers to be the key residential construction materials (as set out in paragraph 62)
- b. the full concession of duty on imports of those materials
- c. a review after five years to determine the value in continuing the scheme
- d. broad wording requiring an importer to use a concession code
- e. relatively relaxed implementation from Customs, accepting some goods ultimately used for non-residential construction purposes.

Summary of Regulatory Impact

96 The table below provides a summary of the likely impact of the preferred options package for a tariff concession scheme.

Incidence of impact on:	Impact
Government revenue	<p>The preferred options package will cost an estimated \$5.5 million loss in Government revenue over the course of the first year through forgone import duty paid. It is likely this impact will be lower in subsequent years as effective tariffs are declining as trade agreements take effect, so forgone tariff revenue could also be expected to decline. [REDACTED]</p> <p>Conceivably there could be secondary effects of the implementation of a scheme. For example, if importers make larger profits, the Crown may receive more revenue in company tax. There is too much uncertainty around secondary effects for there to be any value in estimating them here.</p>
Cost of residential construction	<p>As indicated above, our preferred options package would reduce the cost of a newly built 202m² house by around \$900. 21,300 new dwellings were consented throughout New Zealand in 2013. If a similar number of consents are issued in 2014 and each saved \$900, the total savings would be \$19,170,000.</p>
Manufacturers	<p>As noted above, the analysis assumes domestically produced goods are priced up by the amount of the corresponding effective tariff. Hence, we expect some domestic manufacturers to face downward price pressure. Given the highest tariffs within the scope of the preferred options package are only five percent, we do not expect this to threaten the viability of New Zealand businesses.</p> <p>[REDACTED]</p>

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Customs	Customs will incur some cost in the initial implementation of the scheme while new procedures are established. Some importers may appeal to have additional products included in the scheme. However, Customs has networks for disseminating information about the scheme and procedures for dealing with inquiries. They have indicated the scheme set out by the preferred options package can be manageable. There will also be some minimal ongoing cost.

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B: Options to amend anti-dumping regime

Assessment criteria

97 The overarching objective is to minimise any undue barriers to competition in the construction sector. Underlying this objective are seven criteria, against which the options will be assessed, as follows:

Does the option retain the ability to protect against unfair trading practices?

98 An objective is to ensure that the fundamental objective of the anti-dumping regime (to protect New Zealand industries from unfair trading practices) is not lost. Anti-dumping forms part of New Zealand's wider trade policy; for example, by reassuring New Zealand industry that there is an effective response to unfair trade competition from dumped or subsidised imports, it impacts on their readiness to accept trade liberalisation. Many submissions (including some in support of the options to change the regime) reiterated the purpose of anti-dumping and the need to retain some form of protection for local manufacturers against unfair trade.

Does the option include the ability to have regard to the role of anti-dumping as a barrier to competition in the construction sector?

99 An objective is that anti-dumping duties are not imposed in situations where the benefits to the residential construction sector of greater competition from imports (in the absence of anti-dumping duties) significantly outweigh the harm to the domestic manufacturing sector.

Will the option have direct application to the construction sector with minimal spillover to other industries/sectors?

100 MBIE's analysis and consultation have been focused on the construction sector. In the absence of wider consultation, it is preferable that changes will be largely confined to this sector.

Is the option simple for businesses to understand and low cost to implement and administer?

101 The anti-dumping regime, including the sunset review process, is not costless. An objective is that the regime will be as simple and as low-cost as possible.

Does the option provide for changes to take effect in a timely manner?

102 An objective is that any benefits can be achieved relatively quickly. Construction activity is forecast to ramp-up significantly over the next five or so years, particularly in Auckland and Christchurch, so it is important to realise the benefits of lowering barriers to competition as soon as possible.

Does the option provide for the domestic industry to engage in relation to specific anti-dumping proceedings?

103 An objective is that the regime includes a process that enables the domestic industry to make its case in relation to a given anti-dumping duty.

Does the option provide regulatory certainty?

104 An objective is that the regime provides a certain and predictable regulatory environment for businesses to operate in New Zealand.

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Options to amend the Anti-Dumping regime

- 105 MBIE has considered five potential options, all of which require changes to the Act:
- a. Introduce a bounded public interest test
 - b. Provide for Government Policy Statements
 - c. Limit number of times an anti-dumping duty can be continued
 - d. Exempt residential construction materials from the anti-dumping regime
 - e. Temporarily suspend the application of the anti-dumping regime in relation to construction materials
- 106 Three of the five options (options a, b, c) were consulted on in the Options Paper released in November 2013. Options d and e have since been considered for two reasons:
- a. Firstly, concerns were raised in submissions about the potential for unforeseen impacts on other areas. Thus the additional options aim to confine the impact to the construction sector.
 - b. Secondly, the additional options aim to have a relatively quick impact. Construction activity is forecast to ramp-up significantly over the next five or so years, particularly in Auckland and Christchurch, so it is important to realise the benefits of lowering barriers to competition as soon as possible.
- 107 Option 1: Bounded public interest test (consulted on)
- a. Under this option, the Act would be amended to specify public interest factors that should be taken into account in deciding whether to impose duties. The consultation covered the option of a *bounded* public interest test (rather than a full public interest test). Recognising the role of anti-dumping in providing a mechanism to protect against unfair trade, the *Options Paper* noted that there was no intention to reform the fundamentals of this regime, such as by introducing a full public benefit test which would involve a full cost-benefit analysis including the impact of anti-dumping duties on New Zealand consumers. Rather the intention was look at more limited options that would facilitate government policy approaches in such areas as residential construction costs.
- The Options Paper stated: "Recognising the significant costs and judgement required in a full public interest test, a first option is to specify particular elements that should be taken into account in imposing anti-dumping duties, but with a presumption toward the imposition of duties. For example, the criteria for imposing anti-dumping duties could include the ability for the Minister to take into account whether, by restricting the availability of goods at competitive prices, anti-dumping duties would be likely to cause injury to downstream industries that significantly outweighs the potential injury caused by the dumped goods to domestic producers."
- A benefit of the bounded public interest test option is that it retains the ability to protect against unfair trading practices. This option also ensures that duties would not be imposed if they could be shown to impose disproportionate costs on downstream industries. It retains the process of allowing the domestic manufacturing sector to make its case for duties in relation to a given good. Because the criteria would be set out in legislation, it would provide for regulatory certainty (though less so than the status quo). Investigations would be higher cost than the status quo because there would be more factors to take into account but to a lesser extent than a full public interest test. Of the three options consulted on, this option tended to be preferred by submitters (refer Annex C).

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- 108 Option 2: Government Policy Statement (consulted on)
- a. Under this option, the Act would be amended to allow the Government to produce Statements which would set out, as relevant, government priorities to be taken into account in deciding whether to impose duties. For example, a statement could be produced which set out the Government's commitment to affordable housing and direct MBIE to take account of the impact of anti-dumping duties on construction costs in investigating whether or not to impose a given duty. In effect, it allows the Government of the day to widen the discretion of the Minister in deciding whether or not to impose a duty (at present, there is very limited discretion). Like Option 1, this option retains the ability to protect against unfair trading practices. It also has the benefit of seeking to tackle a particular issue, in this case residential construction costs. As was highlighted in submissions, a key concern with this option is that it does not provide for regulatory certainty since the criteria for imposing duties would be subject to changing political priorities. Another cost of this option is that it is unlikely to achieve a quick impact given the need to produce a statement (through the regulation making process) before undertaking a review of any given duty.
- 109 Option 3: Limit continuation of duties (consulted on)
- a. Under this option, the Act would be amended to limit the number of times an anti-dumping duty can be continued (e.g. a given import duty could only be renewed twice after which there is a five year stand-down period before a further review could be initiated). The key concern with this option is that it is a blunt tool that, once the threshold has been met, does not enable protection against unfair trading practices nor does it allow consideration of the wider public interest. It is also likely to have wide-reaching impacts beyond the construction sector.
- 110 Option 4: Exempt construction materials from anti-dumping regime
- a. Under this option, the Act would be amended to state that the anti-dumping regime does not apply to materials that are primarily used in residential construction. The key benefits of this option are that it applies directly to the construction sector, can have an immediate impact, and has low administration costs (since no reviews need be undertaken). A key concern with this option is that it is blunt and does not enable protection against unfair trading practices in relation to construction materials even if this is in the public interest. This option does not provide any ability for the domestic industry to make a case for a duty.
- 111 Option 5: Suspend the application of anti-dumping regime in relation to construction materials
- a. Under this option, the Act would be amended to suspend anti-dumping duties in relation to construction materials for a specified period. For example, duties could be suspended for three years to encompass the Christchurch rebuild and forecast increase in construction activity in Auckland. As with Option 4, the key benefits are that it applies directly to the construction sector, can have an immediate impact, and has low administration costs (since no reviews need be undertaken). An additional benefit is that it is directly aimed at overcoming the current concerns with the construction sector, particularly the identified issues with competition. In addition, though it is relatively blunt and does not enable protection against unfair trading practice, it is time-limited.

Summary of qualitative analysis

112 The table below sets out this analysis of options relative to the status quo. It shows that two options appear to best meet the qualitative assessment criteria:

- a. Development of a bounded public interest test; and
- b. Suspension of the anti-dumping regime in relation to residential construction materials.

Preferred way forward is a combination of these two options

113 Recognising that the underlying problem is the inability to take into account wider impacts in an anti-dumping investigation, the development of a bounded public interest test is a preferred option. This option directly combats the issue that has been identified: namely, that the test for whether to impose duties is too narrow. It also retains the ability to protect against unfair trading practices where appropriate and retains the good-practice process whereby the domestic industry can make its case for a given anti-dumping duty.

114 However, a public interest test will have wider impacts beyond the construction sector. While we recommend progressing this option, MBIE considers that further consultation would be needed with all industries subject to (and likely to be subject to) anti-dumping duties. This process, including the full legislative change process, would be expected to take a minimum of 18 months. Under this option it would likely be two years before anti-dumping duties on construction materials could be removed (i.e. legislative change followed by review of specific duties under the new test) if the duties were found not to be in the public interest.

115 Recognising the desire to remove undue barriers to competition in the construction sector as quickly as possible, an additional preferred option based on the analysis above is to amend the Act as soon as is feasible to temporarily suspend the application of the regime in relation to construction materials. For example, a three year suspension could be provided in legislation to coincide with the Christchurch rebuild and the forecast increase in residential construction activity in Auckland. In contrast to the proposed five year timeframe for the tariff concessions scheme, the three year timeframe would allow sufficient time for bounded public interest test to be developed and incorporated into the criteria used for considering the imposition of the anti-dumping and countervailing duties under the Act.

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Objectives / Options	Retain ability to protect unfair trading practices	Allows ability to have regard to anti-dumping as a barrier to competition	Direct application to construction sector (limit spill-over)	Simple with low transaction costs	Quick impact (of reducing barriers to competition)	Provides ability for industry to make its case in relation to a given good	Regulatory certainty	Total score
Status Quo	5/5 Duties imposed if there is dumping and material harm	0/5 No ability to consider wider impacts	0/5 No specific consideration for sector	3/5 Reviews costly criteria but clear and well understood	0/5 Status quo will not have this impact	5/5 Well established process for engagement	5/5 Leaving regime unchanged is most certain approach	18
1. Bounded Public Interest Test	5/5 Maintains tests for dumping and material harm	5/5 Specifically provides for consideration of wider impacts	2/5 Depends on formulation but likely to have some wider impact	2/5 Introduces new criteria on top of status quo	2/5 Requires review to be undertaken	5/5 As per status quo, well established process	4/5 New criteria would be set in legislation therefore certain, but change from status quo increases uncertainty	25
2. Government Policy Statement	5/5 Maintains tests for dumping and material harm	3/5 Depending on formulation of GPS allows for this	2/5 Can be directed at construction sector but concerns it can be used more widely	1/5 Introduces new criteria on top of status quo and requires GPS to be produced	1/5 Requires both production of policy statement and review process	5/5 As per status quo, well established process	0/5 Concerns raised about this option being open to changing political priorities	17
3. Limit of continuation of duty	2/5 Retains ability for a limited time only, after which it is gone	2/5 Indirectly has regard to this the longer duties in place, the more they shield industries from the need to adjust	0/5 Would directly impact other sectors where anti-dumping duties are applied	4/5 Clear rules about when duties should cease to apply	4/5 Depending on how formulated, could have immediate impact	0/5 Once time limit reached, no opportunity for industry to engage	4/5 Clear rules so certain, but change from status quo increases uncertainty	16

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Objectives / Options	Retain ability to protect unfair trading practices	Allows ability to have regard to anti-dumping as a barrier to competition	Direct application to construction sector (limit spill-over)	Simple with low transaction costs	Quick impact (of reducing barriers to competition)	Provides ability for industry to make its case in relation to a given good	Regulatory certainty	Total score
4. Exemption for construction materials	0/5 Does not allow for protection for domestic manufacturers of construction materials in case of unfair trade	3/5 Blanket exemption recognises impact of duties as a barrier to competition but doesn't allow consideration on a case by case basis	5/5 Direct application with no spillover	5/5 Simple and low-cost (no need to undertake sunset reviews)	5/5 Immediate impact	0/5 No opportunity for construction sector to engage	3/5 Very clear rule set in legislation, but may raise concerns about potential for government to make similar changes	21
5. Suspension (e.g. 3 years) for construction materials	2/5 For a limited period (e.g. 3 years) does not allow for protection in case of unfair trade	3/5 Blanket suspension recognises impact of duties as a barrier to competition but does not allow on a case by case basis	5/5 Direct application with spillover	5/5 Simple and low-cost (no need to undertake sunset review)	5/5 Immediate impact	2/5 For a limited period (3 years) does not allow sector to engage	3/5 Very clear rule set in legislation, but may raise concerns about potential for government to make similar changes	25

Analysis of costs and benefits of preferred option for Anti-Dumping

116 The following analysis sets out, in greater detail, the likely costs and benefits and incidence of costs and benefits of the preferred way-forward (with particular attention to the suspension of anti-dumping duties, recognising that at any bounded public interest test would be separately subject to a full regulatory impact analysis once developed and being recommended to Cabinet).

Analysis of the benefits of the preferred options

117 Key benefits of this option are that it: can be implemented with immediate effect, directly combats the issues that have been identified with competition in the construction sector, and limits the impact to this sector (recognising also that consultation to date has been focused on construction sector stakeholders). Although the proposed suspension is a relatively blunt instrument, it is temporary and has low administration cost. MBIE's analysis, outlined below, indicates that the benefits of removing anti-dumping duties on construction materials, particularly increased competition and a resulting reduction in construction costs, likely outweighs the harm to the domestic manufacturing sector.

118 As mentioned earlier in this report, MBIE estimates of the direct benefit of removing anti-dumping duties on plasterboard alone indicate a reduction in the cost of constructing an average house in the range \$680 - \$4,200. This is based on the following assumptions:

- a. The construction cost of a 202m² house in Auckland is \$335,302 and plasterboard (materials only) makes up 4.1 percent of the construction cost (from MBIE house modelling, July 2013).
- b. In the absence of anti-dumping duties, the price of plasterboard would decrease by between 5 percent [REDACTED] and 31 percent (based on export data from the 2012 review that showed that the Thai average export price to Thailand's top-10 plasterboard export destinations was 31 percent less than the average price to New Zealand).

119 Removing anti-dumping duties on wire nails from China and reinforcing steel bar and coil from Thailand is difficult to quantify but is expected to have a much smaller direct impact.

120 The indirect benefits arising from the removal of anti-dumping duties and subsequent increase in competition (greater innovation, price reductions and/or quality improvements, and more efficient allocation of resources in the economy) are significant.

121 We expect that benefits will also flow from importers already operating in New Zealand being able to compete on price. In the case of the plasterboard product market, existing importers include: Elephant Plasterboard and Element Plasterboard. However, it is difficult to directly assess the magnitude of this indirect impact because the duties, and even the threat of duties, are likely to change the underlying behaviours and incentives of firms. For example, even firms not subject to anti-dumping duties may be avoiding competing on price due to the potential for duties to be applied.

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122 The 2013 US study already mentioned also highlighted the negative impact anti-dumping duties can have on supply, finding that anti-dumping increases the likelihood of exit from the US market by foreign suppliers by more than fifty percent. The study also found that anti-dumping may have a far greater welfare impact than generally recognised since firms may not try to enter a market in the first place if the destination industry is known to be aggressive users of anti-dumping.

123 Feedback MBIE received [REDACTED]

a. [REDACTED]

b. [REDACTED]

124 Furthermore, domestic manufacturers may leverage any market power afforded by anti-dumping duties to retain their market position in a much wider range of residential construction materials (e.g. through product bundling). Limiting the ability of importers to compete on price in one product market could, therefore, lead to a reduction in competition in a much wider range of residential construction materials.

Impact on domestic manufacturers of suspending anti-dumping duties

125 While, in the long run, domestic manufacturers would likely adjust to increased competition from imports, the proposed suspension may, in the short run, lead to reduced profitability and a drop in market share for domestic manufacturers of the residential construction materials that currently have anti-dumping duties in place.

126 The domestic manufacturers that would be impacted are:

- a. Winstone Wallboards Ltd, wholly owned subsidiary of Fletcher Building Ltd that currently holds [REDACTED] percent market share in the plasterboard products market.
- b. Pacific Steel, an operating division of Fletcher Steel Limited and a wholly owned subsidiary of Fletcher Building Holdings Limited which holds approximately [REDACTED] percent of the market share for steel rebar.
- c. Wireplus Limited, Arrow nail Industries Limited and New Zealand Nail Industries Ltd, three separate New Zealand owned and operated producers, which hold approximately [REDACTED] percent of the wire nail market, combined.

127 The magnitude of the impact on profitability for these firms will depend on how vigorously they will engage in the competitive process, whether they are able to compensate for lower prices with increased sales volumes, and whether they are able to introduce more innovative solutions in a timely manner, etc. In any event, MBIE considers that the suspension is unlikely to threaten the viability of these businesses.

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[REDACTED]

129 Moreover, any reduction in price resulting from the proposed three year suspension of anti-dumping duties, would be counterbalanced with increased sales volumes projected to be achieved [REDACTED] on the back of a strong domestic residential construction market.

[REDACTED]

130

[REDACTED]

131

[REDACTED]

a.

[REDACTED]

b.

[REDACTED]

132

[REDACTED]

133

[REDACTED]

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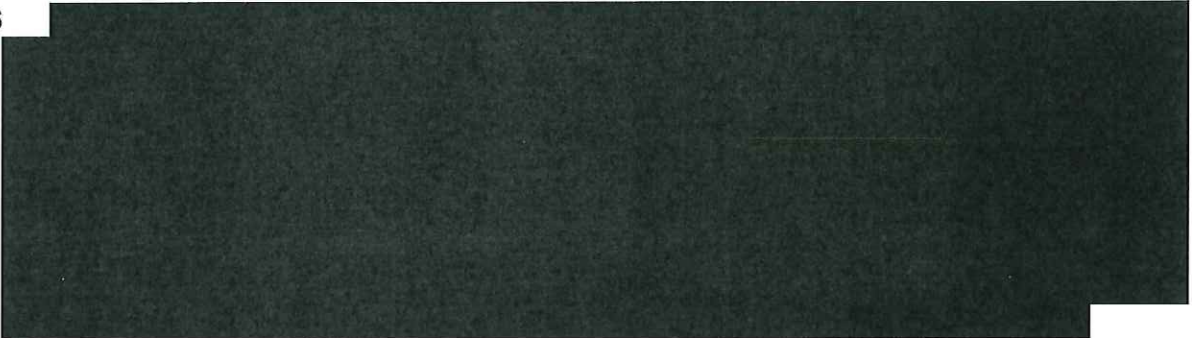
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Summary of Regulatory Impact

137 The table below provides a summary of the likely impact of the preferred options package for the anti-dumping amendments.

Incidence of impact on:	Impact
Government revenue	The suspension of the anti-dumping duties is estimated to have a very small impact on Crown revenue, i.e. less than \$200,000 each year, and may have no impact. For example, in the case of the plasterboard a reference price duty applies, with the effect that importers “price up” to (legitimately) avoid paying the duty.
Cost of residential construction	MBIE estimates that the direct benefit of removing anti-dumping duties on plasterboard alone would be a reduction in the cost of constructing an average house in the range \$680 - \$4,200. Removing anti-dumping duties on wire nails from China and reinforcing steel bar and coil from Thailand is difficult to quantify but is expected to have a much smaller direct impact.
Manufacturers	While, in the long run, domestic manufacturers are expected to adjust to increased competition from imports, the proposed suspension may, in the short run, lead to reduced profitability and a drop in market share for domestic manufacturers of the residential construction materials that currently have anti-dumping duties in place. However, MBIE considers that the suspension is unlikely to threaten the viability of these businesses. The affected NZ businesses will be: Winstone Wallboards Ltd, wholly owned subsidiary of Fletcher Building Ltd; Pacific Steel, an operating

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	<p>division of Fletcher Steel Limited and a wholly owned subsidiary of Fletcher Building Holdings Limited; Wireplus Limited; Arrow nail Industries Limited; and New Zealand Nail Industries Ltd.</p> 
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Consultation

138 Prior to the development of the Options Paper, MBIE released an Issues Paper in May 2013 that sought views on the issues facing the residential construction sector. The submissions received, together with targeted consultation with key stakeholders, highlighted a range of barriers to competition and productivity in the sector, including tariffs and anti-dumping duties.

139 The November 2013 Options Paper consulted on options to amend the tariffs and anti-dumping regime. Feedback is as follows.

Tariffs

140 The Options Paper suggested ways to remove or counter these barriers. It noted that preliminary analysis suggested import tariffs had a minimal impact on construction costs, particularly given the effect of a growing number of free trade agreements. The Paper invited comment on this, asking readers:

Do you agree with the assessment that import tariffs are likely to have a minimal impact on construction costs, especially given that most materials are phasing to duty-free through Free Trade Agreements? Or would provision for applicable tariff duties to be suspended for the time being under the system of tariff concessions help lower costs in specific instances?

141 Forty submissions were received on the Options Paper. Twenty-six made no comment on tariffs.

142 One expressed support for the status quo, writing: "the current tariffs are appropriate".

143 Five submitters supported the reduction of tariffs for a number of reasons:

- a. a general disposition toward free trade
- b. a belief that tariff reduction would create downward pressure on prices
- c. a belief that tariffs were preventing superior products from entering the New Zealand market.

144 One submitter proposed tariffs (and anti-dumping duties) should not be imposed where a market has "a single current provider with over 50% of the market (share)".

145 Six submitters expressed no strong view on the retention of tariffs, recognising:

- a. tariffs were low and programmed to decrease further
- b. other factors such as exchange rates and freight costs were much more influential than tariffs in determining the cost of imports.

146 Two submitters used tariffs as a platform to express concern that the New Zealand market is not protected from low quality imports (i.e. through technical barriers to trade such as standards).

147 Officials agree that, at current levels, import tariffs have minimal impact on residential construction costs. However, they are still detrimental toward competition to a small degree, particularly when the dynamic effects of their removal are considered.

Anti-Dumping Duties

148 14 of the submissions to the Options Paper commented on the proposals to amend the anti-dumping regime.

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149 Eight of the 14 submitters were supportive of the idea of changing the Act, particularly in favour of the bounded public interest test [REDACTED]

150 Some submitters provided further information of the impact of duties on materials prices in New Zealand:

- a. Anti-dumping duties can have the effect of protecting a small number of local jobs while simultaneously generating artificially higher prices for consumers. For example, with regard to plasterboard duties, a simple local manufacturer (with approximately 100 employees) benefits...whereas approximately 95 percent of consumers...are disadvantaged through artificially higher prices [REDACTED]

151 Those in support tended to prefer the option of a bounded public interest test. This was broadly considered to be a fair way to ensure that duties are not applied when not in the public interest.

- a. [REDACTED] accepts that there may be situations where it is appropriate to "level the playing field" through the imposition of anti-dumping duties. However, it considers that the Act needs to be amended to prevent abuse of the system and to ensure that duties are only imposed when they accord with the wider New Zealand interest [REDACTED]

152 Some submitters remained supportive of the anti-dumping mechanism but on balance supported a public interest test:

- a. [REDACTED] supports the anti-dumping principles and appreciates the potential effects of dumped goods on the long term stability of New Zealand businesses. Notwithstanding this, we are also conscious that anti-dumping duties should not be used as protection of a monopoly or a mechanism to avoid being more competitive. Thus, on balance, we would support any option, or range of options, that ensure the long term stability of New Zealand manufacturers but not at the expense of the public interest [REDACTED]

153 A Government Policy Statement was the least favoured option. Submitters raised concerns that this option would increase uncertainty by opening the process up to changing political objectives:

- a. In our view, Option 1 [bounded public interest test] is preferable to Option 2 [Government Policy Statement] as it is clearer, fairer, more predictable and less political [REDACTED]

154 Five of the 14 submitters opposed the proposed options to change the anti-dumping regime due to the need to protect against unfair trade. [REDACTED]

155 The sentiment against amending the regime is largely that anti-dumping is necessary to protect domestic manufacturers from unfair trade practices:

- a. New Zealand has adopted the World Trading Organisation's (WTO) anti-dumping regime to ensure domestic production is not unfairly injured by dumped product and it remains an important part of the country's trade policy framework [REDACTED]

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- 156 Nonetheless, our studies have indicated that anti-dumping is having a chilling effect on competition in the residential construction sector. On top of this, taking into account the Christchurch rebuild and forecast increase in construction activity in Auckland, analysis indicates that (despite this opposition) the benefits outweigh the costs.
- 157 Although the suspension of anti-dumping duties in relation to construction materials is a relatively blunt tool and does not enable protection against unfair trading practices, the proposal is time-limited.
- 158 Some submitters raised the issue that changes to the anti-dumping regime will have (potentially unforeseen) consequences beyond the construction sector:
- a. Liberalising the AD regime to support the construction sector may well have negative implications for other sectors of the economy which will be difficult to forecast █

159 As mentioned earlier, one of the preferred options – to temporarily suspend the anti-dumping regime in relation to key construction materials – was not explicitly consulted on. This is because it was developed in light of submissions received during the latest round of consultation. Specifically, concerns about the potential for unforeseen effects on other sectors (beyond residential construction). Hence this option was designed to minimise this risk. Therefore, we do not consider it a problem that it was not explicitly consulted on as previous consultation provided sufficient information to assess the associated risks, costs, and benefits of the additional option.

Conclusions and Recommendations

Tariffs

- 160 Import tariffs under the status quo constitute a small but not insignificant barrier to competition in the residential construction supplies sector. The removal of the headline tariffs on residential construction materials would involve considerable spillover into materials for other sectors, █ and would run contrary to Cabinet's decision to hold headline tariffs at their current levels until at least 2017. Officials believe a tariff concession scheme could reduce barriers to competition in the residential construction sector while limiting spillover to other industries █
- 161 As tariffs are low and reducing as FTA agreements take effect, the concession scheme would need to concede the entirety of remaining duty on relevant products. It would also need to include a significant proportion of key construction materials to make an impact through much of the market. The scheme preferred by officials covers all materials that MBIE considers to be key residential construction materials.
- 162 Broad concession wording would encourage use of the scheme, despite allowing some spillover into sectors beyond non-residential construction. It would also make the scheme more practical to implement.
- 163 A review of the scheme after five years is consistent with good policy practice and allows the scheme to take effect over the window of the Christchurch rebuild and the current shortage of houses in Auckland.
- 164 To date, stakeholders have been relaxed about the proposal for a tariff concessions scheme.

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Anti-Dumping Duties

165 Anti-dumping duties could be having a significant impact on residential construction costs, particularly as they hinder the ability of importers to compete on price.

166 Recognising the need to remove undue barriers to competition in the construction sector as quickly as possible, MBIE's preferred option is to amend the Act to temporarily suspend the application of the regime in relation to construction materials. This option directly combats the issues that have been identified with competition in the construction sector and limits the impact to this sector (recognising that consultation to date has been focused on the construction sector only). MBIE's initial analysis indicates that the benefits of removing anti-dumping duties on construction materials, particularly increased competition and a resulting reduction in construction costs, likely outweighs the harm to the domestic industry.

167 In addition, MBIE recommends further work on the development of a bounded public interest test. A public interest test will have wider impacts beyond the construction sector and will require time to be developed and fully consulted on. While we recommend progressing this option, it would likely be two years before anti-dumping duties on construction materials could be removed (i.e. to account for legislative change followed by review of specific duties under the new test).

Summary of impacts

168 The table below summarises the impact of the preferred options (in relation to both the anti-dumping regime and tariffs):

Incidence of impact on:	Impact
Government revenue	<p>It is estimated that the tariff concessions scheme will cost a \$5.5 million loss in Government revenue over the course of the first year. However, this loss is expected to decline in subsequent years as effective tariffs diminish due to the commencement of trade agreements. It is also conceivable that Government may receive more revenue in company tax if importers make larger profits but this is uncertain and impossible to estimate.</p> <p>The suspension of the anti-dumping duties is estimated to have a small (less than \$200,000 loss) to zero impact on Crown revenue.</p>
Cost of residential construction	<p>The proposed tariff concession scheme would reduce the cost of a newly built 202m² house by approximately \$900. This has the potential to result in total savings of \$19,170,000 in 2014 if the same number of houses receives consent as they did in 2013.</p> <p>Removing anti-dumping duties on plasterboard would result in a cost reduction in the range of \$680-\$4,200 when constructing an average house. Removing anti-dumping duties on wire nails from China and reinforcing steel bar and coil from Thailand is difficult to quantify but is expected to have a smaller direct impact.</p>
Manufacturers	<p>In both instances, domestic manufacturers can be expected to face downward price pressure. This may in the short-run lead to reduced profitability and a drop in market share for domestic manufacturers. However, MBIE considers it unlikely the viability of these New</p>

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	Zealand businesses will be threatened.
Customs	Customs will incur some cost in the initial implementation of the tariff concessions scheme while new procedures are established and there will also be some minimal ongoing cost. In the event that importers appeal to have additional products included in the scheme, Customs has mechanisms in place to deal with this. Overall, they have indicated that the scheme is manageable.

Implementation

Tariffs

169 A tariff concession scheme could be in force by May 2014. It would be put in place by Order-in-Council. No changes to the Tariff Act 1988 are necessary.

170 Customs has been involved in the development and design of options. The preferences expressed in this RIS are practical and relatively straightforward for Customs to administer as the focus is on enforcement of the regime at the border rather than the end-use of goods over which Customs has no oversight.

171 The details of the tariff concession scheme would be promulgated through Customs' internal processes and gazetted. Importers could be expected to adapt swiftly to the usage of a new concession code. We will work with Customs to determine whether guidance material should be produced to assist importers.

Anti-Dumping Duties

172 A temporary suspension of anti-dumping duties on construction materials requires amendment to the Dumping and Countervailing Duties Act 1988.

173 Anti-dumping duties would be temporarily suspended for three years on construction materials, during which time a bounded public interest test would be developed. If introduced, and any suspension has been lifted, suspended duties would be subject to this new test.

Monitoring, Evaluation and Review

Tariffs

174 As noted above, officials suggest the scheme be reviewed after five years from the date of implementation. This would allow the scheme to affect the Christchurch rebuild and the current pressure on house prices in Auckland. [REDACTED]

Anti-Dumping Duties

175 As noted above, in the short run, anti-dumping duties would be temporarily suspended for three years on construction materials, during which time a bounded public interest test would be developed. Once introduced and the suspension has been lifted, any suspended duties would be subject to this new test.

ANNEX 1

Indicative Tariff Duty Rates and Impacts in 2013: Selected Building Materials for a 202m² House

Key points

- Tariffs are impeding competition across a number of building materials
- Where tariffs reduce competition, domestic producers may also price up
- So the raw figures may hide some of the resultant behaviours in the market
- The dynamic effects of greater competition are likely to magnify the direct savings due to tariff removal
- The impact of tariffs on competition is likely to be greatest where there are alternative sources of supply from non-FTA sources such as Europe and the United States.

Materials	Headline Tariff Rate	Duty Collected as % of Import Value	Impact on Cost of a 202m ² house*	Global Imports to NZ*	Duty Collected	Major Import Sources for NZ
<i>Cement and clinker</i>	Free	Nil	Nil	\$9.1 million	Nil	Vietnam 42% China 36%
<i>Steel roofing</i>	Free or 5%	0.4%	\$161 \$46.73	\$0.6 million \$1.7 million	\$6,744	China 46% Korea 46%
<i>Wooden trusses and framing</i>	Free	Nil	Nil	\$17,973	Nil	US 60% Australia 40%
<i>Brick cladding</i>	5%	0.01%	\$1 \$1.13	\$12.5 million	\$895	Australia 96% China 4%
<i>Aluminium windows</i>	5%	0.4%	\$68 \$58.84	\$1.8 million	\$7,261	Australia 71% China 18% Italy 5%
<i>Fibreglass insulation</i>	5%	2.9%	\$76 \$65.91	\$11.5 million	\$330,654	Australia 42% US 34%
<i>Plasterboard</i>	5%	0.03%	\$5 \$4.67	\$4.6 million	\$1,505	Australia 52% Thailand 44%
<i>Paint</i>	5%	0.7%	\$37 \$32.02	\$16.7 million	\$120,514	Australia 54% Netherlands 14% Germany 10%
<i>Kitchen units</i>	5%	2.7%	\$273 \$237.44	\$9.5 million	\$262,037	China 19% Germany 17% UK 14%

* Figures revised post-RIS